

1 Rasha Gerges Shields (Cal. Bar No. 218248)

rgergesshields@jonesday.com

2 Tyler J. Scott (Cal. Bar No. 341039)

tscott@jonesday.com

3 JONES DAY

4 555 South Flower Street, 50th Floor

Los Angeles, CA 90071

5 Telephone: +1.213.243.2719

6 Facsimile: +1.213.243.2539

7 Attorneys for Defendant

UNIVERSITY OF SOUTHERN CALIFORNIA

8  
9 UNITED STATES DISTRICT COURT

10 CENTRAL DISTRICT OF CALIFORNIA

11  
12 DOE JEWISH USC FACULTY  
13 MEMBER 2004 and DOE JEWISH  
14 USC STUDENT 1987, Individually  
And On Behalf of All Others Similarly  
Situated,

15 Plaintiffs,

16 v.

17 Trustees of THE UNIVERSITY OF  
18 SOUTHERN CALIFORNIA, a private  
public benefit corporation; and DOES 1  
through 100, inclusive,

19 Defendants.

Case No.

[Removed from Los Angeles Superior  
Court, Case No. 24STCP01592]

**DEFENDANT'S NOTICE OF  
REMOVAL OF ACTION  
PURSUANT TO 28 U.S.C. §§ 1332,  
1441, 1446, AND 1453**

**[CAFA JURISDICTION]**

Original Complaint Filed: May 15, 2024  
FAC Filed: June 5, 2024  
FAC Served: June 7, 2024

1           **TO THE CLERK OF THE COURT:**

2           **PLEASE TAKE NOTICE** that Defendant UNIVERSITY OF SOUTHERN  
 3 CALIFORNIA (“USC”), erroneously sued as “Trustees of THE UNIVERSITY OF  
 4 SOUTHERN CALIFORNIA,”<sup>1</sup> hereby removes the above-captioned action from the  
 5 Superior Court of California, County of Los Angeles to the United States District  
 6 Court for the Central District of California, pursuant to 28 U.S.C. §§ 1332, 1441, 1446  
 7 and 1453. For the reasons set forth below, this Court has original subject matter  
 8 jurisdiction over this action under the Class Action Fairness Act of 2005 (“CAFA”),  
 9 codified in part at 28 U.S.C. §§ 1332(d) and 1453, because minimum diversity exists,  
 10 the amount in controversy exceeds \$5,000,000, exclusive of interest and costs, and  
 11 there are more than 100 putative class members.

12           In support of this removal, USC states the following:

13           1.       On May 15, 2024, Plaintiff “DOE Jewish Faculty Member 2004” filed a  
 14 putative class action complaint (“Original Complaint”) entitled *DOE Jewish USC*  
 15 *Faculty Member 2004 v. Trustees of the University of Southern California*, Case No.  
 16 24STCP01592, in the Superior Court of the State of California for the County of Los  
 17 Angeles (the “State Court Action”).

18           2.       On June 5, 2024, Plaintiff “DOE Jewish Faculty Member 2004,” along  
 19 with new plaintiff “DOE Jewish USC Student 1987,” filed an amended putative class  
 20 action complaint, bringing the same set of claims against USC as the Original  
 21

---

22           <sup>1</sup> Plaintiffs’ complaints were modeled after a separate lawsuit filed by  
 23 Plaintiffs’ counsel against the “Regents of the University of California, Los Angeles”  
 24 on May 13, 2024. Although the “Regents of the University of California” is an  
 25 incorporated legal entity, the “Trustees of the University of Southern California” is  
 26 not. Moreover, the operative complaint references USC itself as the defendant, not  
 27 USC’s Board of Trustees. *See, e.g.*, First Amended Complaint at ¶ 11 (“The  
 28 Defendant University, one of America’s leading universities...”); ¶ 55 (“Defendant  
 University is a California private public benefit corporation, controlled by its Board  
 of Trustees.”). The First Amended Complaint is included in Exhibit A, beginning on  
 page 42.

1 Complaint (the “First Amended Complaint” or “FAC”). In particular, in the First  
 2 Amended Complaint, Plaintiffs assert claims for violations of the Bane, Unruh and  
 3 Ralph civil rights acts (Counts 1-3), as well as claims for negligence, breach of  
 4 contract, assault, battery, declaratory relief, and injunctive relief (Counts 4-9). *See*  
 5 FAC at ¶¶ 63-113. The two Plaintiffs, who assert they are a USC professor and USC  
 6 student, respectively, brought the First Amended Complaint on behalf of themselves  
 7 “individually and on behalf of all others similarly situated.” *Id.* at ¶¶ 22, 33; *see also*  
 8 *id.* at 60 (suing “on behalf of all other similarly situated Jewish professors”), 61.

9 3. Plaintiffs seek injunctive relief, declaratory relief, compensatory  
 10 damages, and attorneys’ fees and costs.

11 4. As a preliminary matter, USC denies the factual allegations of both  
 12 complaints and denies that: (i) it has any liability to Plaintiffs or any members of the  
 13 putative class they seek to represent; (ii) any class can be or should be certified in this  
 14 action; and (iii) Plaintiffs or any putative class members are entitled to any damages  
 15 or relief in this matter. That said, for the reasons set forth below, all requirements of  
 16 CAFA are satisfied and removal to the United States District Court for the Central  
 17 District of California is proper.

18 5. By filing this Notice of Removal, USC does not waive any defense to  
 19 the First Amended Complaint.

#### 20 **COMPLIANCE WITH STATUTORY REQUIREMENTS**

21 6. USC was served with a copy of the summons, First Amended Complaint  
 22 and Original Complaint on June 7, 2024. Neither the Original Complaint nor the First  
 23 Amended Complaint was served on USC prior to June 7, 2024.

24 7. USC has not yet answered or otherwise responded to the Original  
 25 Complaint or the First Amended Complaint, nor has its time to respond expired.

26 8. This notice of removal is timely because it is filed with this Court within  
 27 30 days of the date USC was first served. 28 U.S.C. § 1446(b)(1); Fed. R. Civ. Proc.  
 28 6(a)(1)(C); *Anderson v. State Farm Mut. Auto. Ins. Co.*, 917 F.3d 1126, 1128 (9th Cir.

2019) (under FRCP 6(a)(1)(C), removal “timely filed” on following Monday when removal window ended on a Sunday); *Murphy Bros. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 347-48 (1999).

9. Pursuant to 28 U.S.C. § 1446(a), a copy of all process, pleadings, and orders served on USC is attached hereto as **Exhibit A**.

10. Pursuant to 28 U.S.C. § 1446(d), USC will file a copy of this Notice of Removal with the clerk of the State Court Action, and will serve Plaintiffs through their attorney of record in the State Court Action with this Notice promptly after its filing.

### **VENUE**

11. Removal to this federal judicial district and division is proper under 28 U.S.C. §§ 1441(a) and 1446(a) because the State Court Action was originally pending in this judicial district, namely the Superior Court of the State of California for the County of Los Angeles.

### **SUBJECT MATTER JURISDICTION - CAFA**

12. The Court has original subject matter jurisdiction over this action pursuant to CAFA. *See* 28 U.S.C. § 1332(d)(2). Under CAFA, a district court has original jurisdiction over any civil action styled as a class action in which: (i) the number of members of the proposed plaintiff class is not less than 100, in the aggregate; (ii) the matter in controversy exceeds \$5,000,000, exclusive of interest and costs; and (iii) any member of a class of plaintiffs is a citizen of a State or country different from any defendant. *See* 28 U.S.C. §§ 1332(d)(2) and (d)(5); *Greene v. Harley-Davidson, Inc.*, 965 F.3d 767, 771 (9th Cir. 2020). If a state court putative class action meets all three requirements, it may be removed to federal court. *See* 28 U.S.C. § 1441(a) (“[A]ny civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant . . . .”); *see also Benko v. Quality Loan Service Corp.*, 789 F.3d 1111, 1116 (9th Cir. 2015) (“CAFA’s language favors federal jurisdiction over class actions”)

1 (internal citation and quotation omitted). As set forth below, all requirements to  
2 establish jurisdiction pursuant to CAFA are satisfied in this case.

3 13. Moreover, “a removing defendant’s notice of removal need not contain  
4 evidentiary submissions but only plausible allegations of the jurisdictional elements.”  
5 *Arias v. Residence Inn by Marriott*, 936 F.3d 920, 922 (9th Cir. 2015) (internal  
6 quotation and citation omitted). “[C]ourts should apply the same liberal rules to  
7 removal allegations that are applied to other matters of pleading,” and “no antiremoval  
8 presumption attends cases invoking CAFA.” *Dart Cherokee Basin Operating Co.,*  
9 *LLC v. Owens*, 574 U.S. 81, 87 (2014) (quotation marks and citations omitted).

### 10 **The Proposed Class Has More Than 100 Members.**

11 14. Based on the allegations of the First Amended Complaint, the number of  
12 putative class members exceeds 100. 28 U.S.C. § 1332(d)(5)(B). Plaintiffs seek to  
13 certify a class of Jewish USC faculty members and Jewish students. *See* FAC ¶¶ 22,  
14 33, 60, 61. As discussed in the accompanying Declaration of Frank Chang, attached  
15 hereto as **Exhibit B**, USC does not require its students to disclose their religious  
16 affiliation to USC, and, as a result, it does not know the religious affiliation of the vast  
17 majority of its students. *See* Ex. B, Chang Decl., ¶ 3. However, over 100 students  
18 enrolled in USC in the Spring of 2024 have self-reported their religious affiliation as  
19 Jewish to USC’s Registrar’s Office. *Id.*, ¶ 4. On top of that, Plaintiffs allege that a  
20 “substantial” number of USC’s faculty of “over 7,000” people are “similarly situated  
21 Jewish Professors.” FAC ¶ 22. Accordingly, the proposed class has more than 100  
22 members.

### 23 **The Amount In Controversy Exceeds \$5 Million.**

24 15. The First Amended Complaint does not plead a specific amount of  
25 damages, though the amount in controversy is ascertainable from the allegations set  
26 forth in the complaint about the “amount at stake.” *See Greene*, 965 F.3d at 771  
27 (courts “first look to the complaint” to determine the amount in controversy).  
28 “‘Amount at stake’ does not mean likely or probable liability; rather, it refers to

1 possible liability.” *Id.* (emphasis added); *see also Korn v. Polo Ralph Lauren Corp.*,  
 2 536 F. Supp. 2d 1199, 1205 (E.D. Cal. 2008) (“In measuring the amount in  
 3 controversy, a court must assume that the allegations of the complaint are true and  
 4 that a jury will return a verdict for the plaintiff on all claims made in the complaint.”).  
 5 In short, to meet CAFA’s amount-in-controversy requirement, a defendant needs only  
 6 to “plausibly show that it is reasonably possible that the potential liability exceeds \$5  
 7 million.” *Greene*, 965 F.3d at 772; *see also Dart Cherokee*, 574 U.S. at 89 (“[A]  
 8 defendant’s notice of removal need include only a plausible allegation that the amount  
 9 in controversy exceeds the jurisdictional threshold.”); *Korn*, 536 F. Supp. 2d at 1204-  
 10 05 (“a removing defendant is not obligated to research, state, and prove the plaintiff’s  
 11 claims for damages”).

12 16. “Among other items, the amount in controversy includes damages . . .  
 13 the costs of complying with an injunction, and attorneys’ fees awarded under fee-  
 14 shifting statutes . . . .” *Fritsch v. Swift Trans. Co. of Arizona, LLC*, 899 F.3d 785, 793  
 15 (9th Cir. 2018) (“a court must include future attorneys’ fees recoverable by statute or  
 16 contract when assessing whether the amount-in-controversy requirement is met”); *see*  
 17 *also Greene*, 965 F.3d at 774 n.4 (“A defendant does not need to prove to a legal  
 18 certainty that a plaintiff will be awarded the proffered attorneys’ fees in the removal  
 19 notice”) (internal quotation and citation omitted).

20 17. Here, Plaintiffs seek damages for an alleged “reign of terror” by  
 21 “Campus Terrorists” that lasted “for weeks on end” intended to “terrorize, intimidate,  
 22 assault, and shame Jewish Students and Faculty members” and placed them “at severe  
 23 emotional and physical risk.” FAC ¶¶ 2, 6, and 17. According to Plaintiffs, USC has  
 24 allowed “severe and pervasive” antisemitism to “fester” and its conduct is an  
 25 “egregious violation” of the civil rights laws. *Id.* at ¶¶ 11, 19, and 69. Plaintiffs claim  
 26 that as a result, Plaintiffs “have been robbed of their college and graduate school  
 27 experience” which, according to Plaintiffs, cost them “\$200,000” each. *Id.* at ¶¶ 20,  
 28

1 90. Applying that figure to the smallest possible class of 100 members alone puts the  
2 amount-in-controversy well over \$5 million.

3 18. Plaintiffs also assert that USC “must now be compelled to implement  
4 institutional, *far-reaching*, and concrete remedial measures.” *Id.* at ¶ 20 (emphasis  
5 added). Plaintiffs ask for an injunction that, among other things: (i) “prevent[s] [USC]  
6 from continuing to create and sponsor a dangerous condition of public property;” (ii)  
7 “prevent[s] [USC] from continuing to support antisemitic and discriminatory conduct  
8 on campus;” and (iii) “prevent[s] outside funding by antisemitic groups and  
9 organizations.” *Id.* at ¶ 26; *see also id.* at ¶ 43 (Plaintiffs can “no longer feel safe on  
10 campus without USC’s intervention and systemic and institutional changes.”).

11 19. In addition, Plaintiffs seek recovery of attorneys’ fees, which amounts  
12 are also included in the amount in controversy for purposes of CAFA jurisdiction.  
13 *See id.* at ¶ 27.

14 20. Without conceding liability, the appropriateness of class treatment and  
15 injunctive relief, the validity of Plaintiffs’ allegations or claims for relief, or that  
16 awarding attorneys’ fees is appropriate, it is clear that here, “the potential liability  
17 exceeds \$5 million” and the amount-in-controversy requirement under CAFA is  
18 satisfied. *Greene*, 965 F.3d at 772.

### 19 **There Is Minimal Diversity Between the Parties.**

20 21. In this matter, minimal diversity exists because USC and members of the  
21 alleged putative class are citizens of different states and countries. 28 U.S.C. §  
22 1332(d)(2).

23 22. USC is a private, not-for-profit public benefit corporation organized and  
24 existing under the laws of the State of California. Thus, USC is a citizen of California.  
25 Further, USC is not a state, state official, or other governmental entity.

26 23. The Original Complaint and the First Amended Complaint are silent as  
27 to Plaintiffs’ citizenship. Their citizenship, however, is not essential for establishing  
28 CAFA jurisdiction because even if they are citizens of California: (i) at least one



1 member of the putative class is a citizen of a state other than California, and (ii) at  
2 least one member of the putative class is a foreign citizen. *See* 28 U.S.C. § 1332(d)(2)  
3 (only requiring that “any member of a class of plaintiffs is a citizen of a State different  
4 from any defendant” or “any member of a class of plaintiffs is a foreign state or a  
5 citizen or subject of a foreign state and any defendant is a citizen of a State” for  
6 minimal diversity). Specifically, more than one of the USC students who have self-  
7 reported their religious affiliation as Jewish to USC’s Registrar’s Office are from  
8 states outside of California (including at least one from New York), and at least one  
9 is a citizen of a country outside of the United States (including one from Guatemala).  
10 *See* Ex. B, Chang Decl., ¶ 4.

11 24. Further, Plaintiffs’ proposed classes include Jewish USC faculty  
12 members and USC students regardless of their citizenship. *See* FAC ¶¶ 22, 33, 60,  
13 61. Given that a substantial part of USC’s student body consists of students from  
14 outside California, the idea that *every* Jewish student at USC is a citizen of California  
15 “is simply beyond belief.” *Hicks v. Grimmway Enterprises, Inc.*, No. 22-CV-2038,  
16 2023 WL 3319362, at \*8 (S.D. Cal. May 9, 2023) (where class of purchasers was not  
17 limited to California citizens, the “contention that not one of those products was  
18 purchased by a non-California, non-Delaware citizen is simply beyond belief.”); *see*  
19 *also King v. Safeway, Inc.*, No. C-08-0999, 2008 WL 1808545, at \*1 (N.D. Cal. Apr.  
20 2008) (defendant showed minimal diversity where class consisted of “persons in the  
21 State of California” who purchased a product and the defendant had stores near other  
22 states); *McMorris v. TJX Companies, Inc.*, 493 F. Supp. 2d 158, 163 (D. Mass 2007)  
23 (“[T]his putative class that is composed entirely of residents of Massachusetts, does  
24 not, by definition, foreclose the inclusion of non-citizens as well. This suffices to  
25 support the assertion of federal jurisdiction in this [CAFA] case.”). Accordingly, the  
26 minimal diversity requirement is therefore satisfied.



1           WHEREFORE, USC notices the removal of this action from the Superior Court  
2 of California, County of Los Angeles to the United States District Court for the  
3 Central District of California pursuant to 28 U.S.C. §§ 1332, 1441, 1446 and 1453.

4 Dated: July 8, 2024

Respectfully submitted,

6 JONES DAY

8 By: /s/ Rasha Gerges Shields  
Rasha Gerges Shields

9 Attorneys for Defendant  
10 UNIVERSITY OF SOUTHERN  
11 CALIFORNIA  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28